



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/846,722	05/01/2001	Stanley E. Katz	CSI 1.0-005CIP	8104
7590		11/30/2005	EXAMINER	
RICHARD R. MUCCINO		MITCHELL, GREGORY W		
758 Springfield Avenue		ART UNIT		
Summit, NJ 07901		PAPER NUMBER		
		1617		

DATE MAILED: 11/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/846,722

Applicant(s)

KATZ ET AL.

Examiner

Gregory W. Mitchell

Art Unit

1617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 September 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-31 is/are pending in the application.
- 4a) Of the above claim(s) 19-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-18 and 27-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is in response to the Remarks filed September 01, 2005.

Claims 1-6 and 8-31 are pending. Claims 19-26 are withdrawn from consideration.

Claims 1-6, 8-18 and 27-31 are examined herein.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

35 USC § 103 Rejections Maintained

Claims 1-6, 8-17 and 31 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Katz (USPN 5798388) in view of Amschler et al. (USPN 5449676) for the reasons set forth in the Office Action dated June 29, 2005.

Applicant argues, "At best, *Amschler et al.* may teach that 3-amino-6-arylpyridazine compounds may be used to treat inflammatory disorders both in the lung and in the nose but *Amschler et al.* certainly does not teach that ALL compounds known to treat inflammatory disorders in the lung may be used in similar manner to treat inflammatory disorders in the nose." This argument is not persuasive. It is noted that Katz teaches a treatment of a disease state in a mammal caused by mammalian cells involved in the inflammatory response. There is no suggestion that this treatment is limited to the exemplification of the treating of inflammatory disorders of the lung exemplified therein. It is well established that consideration of a reference is not limited to the preferred embodiments or working examples, but extends to the entire disclosure for what it fairly teaches, when viewed in light of the admitted knowledge in the art, to a

Art Unit: 1617

person of ordinary skill in the art. *In re Boe*, 355 F.2d 961, 148 USPQ 507 (CCPA 1966); *In re Lamberti*, 545 F.2d 747, 19USPQ 279 (CCPA 1976); *In re Fracalossi*, 681 F.2d 792, 215 USPQ 569 (CCPA 1982); *In re Kaslow*, 707 F.2d 1366, 217 USPQ 1089 (Fed. Cir. 1983). Accordingly, the skilled artisan, when examining the general teaching of Katz with the teaching of Amschler et al. that the inflammatory agents disclosed therein are known to be useful for both the treatment of inflammatory disorders of the lung and nose, would have been motivated by an expectation of success in treating inflammatory disorders of the nose with the methods and compositions of Katz. Furthermore, it is pointed out that the compositions administered by both Katz and Amschler et al. are both anti-inflammatory agents. Therefore, it is Examiner's position that a *prima facie* case of obviousness has been established.

Applicant's arguments that "*Amschler et al.* certainly does not teach that ALL compounds known to treat inflammatory disorders in the lung may be used in a similar manner to treat inflammatory disorders in the nose" are not persuasive because the teachings of Katz are not limited to the treatment of inflammatory disorders of the lung.

Claim 18 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Katz, Amschler et al. and Geria (USPN 5478565) for the reasons set forth in the Office Action dated June 29, 2005.

Applicant's arguments with respect to the Geria reference are not persuasive for the reasons set forth above.

Claim 27-30 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Katz, Amschler et al. and Picciano (USPN 5897872) for the reasons set forth in the Office Action dated June 29, 2005.

Applicant's arguments with respect to the Picciano reference are not persuasive for the reasons set forth above.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory W Mitchell whose telephone number is 571-272-2907. The examiner can normally be reached on M-F, 8:30 AM - 4:30 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on 571-272-0629. The fax phone

Art Unit: 1617

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

gwm



SREENI PADMANABHAN
SUPERVISORY PATENT EXAMINER